

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Jeffrey Sylvester Jones,	:	
Plaintiff,	:	Civil Action 2:05-cv-773
v.	:	Judge Smith
Officer Aaron Graley, et al.,	:	Magistrate Judge Abel
Defendant.	:	

ORDER

Plaintiff Jeffrey Sylvester Jones brings this action alleging that defendant Officer Aaron Graley shot him in the back, broke his wrist, and beat him over the head with a radio and violated his Fourth, Fifth, Eighth, and Fourteenth Amendment rights. This matter is before the Court on defendants' July 5, 2007 motion to reconsider the Magistrate Judge's June 25, 2007 Order. The District Judge, upon consideration of the motion, shall set aside any part of this Order found to be clearly erroneous or contrary to law.

Defendants argue that the Magistrate Judge incorrectly concluded that Matthew Hamilton's September 5, 2007 sworn statement to the Reynoldsburg Division of Police is admissible and can be considered by the Court. Defendants also maintain that plaintiff should not be permitted additional time in which to conduct discovery and file a supplemental brief because plaintiff had already been afforded ample time to do so.

Rule 56(e) of the Federal Rules of Civil Procedure states that "affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein." Mr.

Hamilton's statement meets the requisites of Rule 56. Mr. Hamilton's statement was made based on his personal knowledge because he describes his observations. The information contained in Mr. Hamilton's statement would be admissible at trial, even though the affidavit itself is not admissible on its own. Based on his sworn statement, Mr. Hamilton appears competent to testify on this matter.

For the reasons stated above, defendants' July 5, 2007 motion to reconsider the Magistrate Judge's June 25, 2007 Order is **DENIED**. All additional discovery on the issues raised by defendants' motion for summary judgment must be completed on or before August 24, 2007 in which to conduct discovery, and simultaneous reply briefs must be filed on September 12, 2007.

/s/ George C. Smith
George C. Smith
United States District Judge